

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

-

WRIT PETITION NO : 19639 of 1995

Between:

- 1 The District Manager, Food Corporation of India,
Labbipet, Vijayawada, Krishna District.
- 2 The Depot Manager, Food Corporation of India.
K.C.Depot, Tadepalli.

..... PETITIONERS.

AND

1. The Authority Under Payment of Wages Act viz., The Assistant
Commissioner of Labour, Circle 1, Guntur.
- 2 Smt.SK.Halimabee, C/o Sri U.Chmachalam, Adovacate,
behind Collectorate, Guntur.
- 3 Smt.M.Mariamamma ,C/o Sri U.Chmachalam, Adovacate,
behind Collectorate, Guntur.
- 4 Smt.K.Veeramma, C/o Sri U.Chmachalam, Adovacate,
behind Collectorate, Guntur.
- 5 Smt.K.Tirupathamma, C/o Sri U.Chmachalam, Adovacate,
behind Collectorate, Guntur.
- 6 Smt.P.Subbulamma, C/O Sri U.Chmachalam, Behind
Collectorate, Guntur.
- 7 C.H.Ramulamma, C/O Sri U.Chmachalam, Behind
Collectorate, Guntur.
- 8 D.Rosamma, C/O Sri U.Chmachalam, Behind Collectorate,
Guntur.

9 S.Subbarsthanam, C/O Sri U.Chmachalam, Behind

Collectorate, Guntur.

10 K.Sugunamma, C/O Sri U.Chmachalam, Behind

Collectorate, Guntur.

11 V.Nagendramma,
C/O Sri U.Chmachalam, Adovacate,
Behind Collectorate, Guntur.

12 S.Ramalaxmamma,
C/O Sri U.Chmachalam, Adovacate,
Behind Collectorate, Guntur.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction more particularly one in the nature of a writ of mandamus, calling for the records in File No.B/1134/94 in P.W. Case No.5/94,dt.15/7/95,on the file of the Authority under Payment of Wages Act and Assistant Commissioner of Labour, Circle-I Guntur and quash the same.

Counsel for the Petitioners: Mr. MK.MEHARCHAND NOORI

Counsel for the Respondent No.1: GP FOR LABOUR (Not present)

Counsel for the respondent Nos.2 to 12: None appeared

The Court made the following:

ORDER:

The writ petition is filed by the Food Corporation of India challenging the order dated 15.07.1995 passed by the Authority under Payment of Wages Act and Assistant

Commissioner of Labour-I, Circle Guntur in P.W.Case No.5 of 1994.

2. Certain workers alleged to be employed by a contractor, filed a claim before the Authority under Payment of Wages Act claiming difference of wages between the wages paid and wages paid to the employees working in the Food Corporation of India, Tadepalli on regular side. However, the Authority passed an order dated 15.7.1995. The said order is assailed in the present writ petition.

3. Learned Standing Counsel appearing for the Food Corporation of India submits that the lower authority failed to consider the actual wages drawn by the employees concerned and that if the contractor has paid lesser amount, it is for them to make a representation before the authority. Admittedly, the contractor was not made as a party. Under those circumstances, the order passed by the authority is only unsustainable in law.

4. None appeared for the respondents. However, on going through the order of the Government, I find that the important contentions relating to the payment of wages and also the liability aspect as to whether the contractor has to be made liable or the management, have not been considered in proper perspective. Under those circumstances, I find that the matter requires reconsideration.

5. Accordingly, the order of the authority is set aside and the matter is remitted back for fresh consideration. The authority shall issue notices to the parties concerned and it is open for the Food Corporation of India to implead the contractor, if necessary for proper adjudication of the claim. The authorities shall cause enquiry and pass appropriate orders in accordance with law within a period of four months from the date of receipt of this order.

G.BIKSHAPATHY,J

Date: 02nd December 2004.

Chvn/BSB

Note:

Issue C.C. in one week

/B.O./

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The District Manager, Food Corporation of India, Labbipet, Vijayawada, Krishna District.
2. The Depot Manager, Food Corporation of India, K.C.Depot, Tadepalli.
3. The Authorities under Payment of Wages Act, viz., Assistant Commissioner of Labour, Circle 1, Guntur.
4. Two CCs to the Government Pleader for Labour, High Court Buildings, Hyderabad (OUT).
5. Two CD copies.